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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/389,201	09/02/1999	JAMES JOSEPH BABKA	AT9-99-357	5061
7590	08/12/2005		EXAMINER	
JAMES J MURPHY 5400 RENAISSANCE TOWER 1201 ELM STREET DALLAS, TX 752702199			TANG, KENNETH	
			ART UNIT	PAPER NUMBER
			2195	

DATE MAILED: 08/12/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/389,201	BABKA ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Kenneth Tang	2195	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 23 May 2005.
- 2a) This action is FINAL.                            2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-3 and 9-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-3 and 9-21 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
    - a) All    b) Some \* c) None of:
      1. Certified copies of the priority documents have been received.
      2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
      3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____. | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|   | 6) <input type="checkbox"/> Other: _____.                                   |

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### **DETAILED ACTION**

1. In view of the Appeal Brief filed on 5/23/05, PROSECUTION IS HEREBY REOPENED. New grounds of rejections are set forth below.

To avoid abandonment of the application, appellant must exercise one of the following two options:

- (1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,
- (2) request reinstatement of the appeal.

If reinstatement of the appeal is requested, such request must be accompanied by a supplemental appeal brief, but no new amendments, affidavits (37 CFR 1.130, 1.131 or 1.132) or other evidence are permitted. See 37 CFR 1.193(b)(2).

2. Claims 1-3 and 9-21 are presented for examination.

#### *Claim Rejections - 35 USC § 101*

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

3. Claims 1-3 and 21 are directed to method steps which can be practiced mentally in conjunction with pen and paper, therefore they are directed to non-statutory subject matter. Specifically, as claimed, it is uncertain what performs each of the claimed method steps because it is not tangible. The examiner suggests applicant to change “method” to “computer implemented methods” in the preamble to overcome the outstanding 35 U.S.C. 101 rejection.

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claim 21 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The “activity to be removed is currently displayed” (line 10) is indefinite because it is unclear in the claim language whether this displays the activity or if this is “displaying an identity” (from line 4). In addition, there is no connection made between the “identity” (line 4) to anything else in the claim.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. **Claims 1-2, 9-10, 12-14, 16 , and 17-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Singh (US 6,389,447 B1) in view of Cornaby (US 5,355,486).**

6. As to claims 1, 9, 13, and 20, Singh teaches a method, system and program for tracking activities in a data processing system, comprising the steps of:

maintaining an ordered list of activities running in the system (*col. 1, lines 54 through col. 2, lines 1-22*);

whenever a new activity begins, inserting the new activity at a top of the list (*Figs. 7-10, col. 1, lines 62-63*);

displaying the activity that is at the top of the list (*col. 2, lines 13-17*).

Singh teaches removing an activity from an ordered list after a predetermined time (*col. 6, lines 7-11, 62-64 and col. 8, lines 6-8*). However, Singh does not teach whenever an activity in the ordered list completes, removing the completed activity from the ordered list. Cornaby teaches an inserting a new task in a queue (*col. 5, lines 28-31*) and removing a completed task from the queue (*col. 7, lines 5-8*). It would have been obvious to one of ordinary skill in the art at the time the invention was made to include the feature of removing the completed activity from the ordered list to the existing ordered list of Singh because it would improve the overall efficiency (*col. 2, lines 23-33*).

7. As to claims 2, 10, and 14, Singh teaches wherein the displaying step displays a code pertaining to the latest-started activity that has not completed (*col. 2, lines 16-17*).

8. As to claims 12 and 16, Singh teaches wherein the displaying step further comprises the steps of and system circuitry for:

- determining if an activity that has completed is currently being displayed (*col. 6, lines 62-64 and col. 8, lines 6-8*);

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- if the activity that has completed is currently being displayed, displaying an activity that had previously been displayed (*col. 1, lines 61-65, col. 2, lines 16-17, col. 6, lines 62-64 and col. 8, lines 6-8*).

9. As to claims 17-19, Singh teaches wherein only the activity at the top of the list is displayed (*col. 2, lines 11-17*).

10. As to claim 21, Singh teaches a method for tracking activities running in parallel in a data processing system, comprising the steps of:

- determining if a new activity has started in the system (predetermined time has started) (*col. 2, lines 3-22, col. 6, lines 62-64*);
  - if a new activity has started in the system, displaying an identity of the new activity (*Fig. 7-10, col. 1, lines 62-63, col. 2, lines 13-17*);
    - determining if any activity running in the system has completed (completed after its predetermined time has expired) (*col. 2, lines 3-5, col. 6, lines 62-64*);
      - if an activity has completed, removing that activity from a list of activities to be displayed (*col. 2, lines 3-22*);
        - determining if the activity removed from the list is currently displayed (*col. 6, lines 62-64 and col. 8, lines 6-8*); and if the activity to be removed is currently displayed, displaying an activity not completed that has previously been displayed, wherein only one activity is displayed at a time (*col. 1, lines 61-65, col. 2, lines 16-17, col. 6, lines 62-64 and col. 8, lines 6-8*).

11. **Claims 3, 11, and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable by Singh (US 6,389,447 B1) in view of Cornaby (US 5,355,486), and further in view of Hughes et al. (hereinafter Hughes) (US 5,109,484).**

12. As to claims 3, 11, and 15, Singh fails to explicitly teach the method as recited in claims 1, 9, and 13, respectfully, wherein the activities are configurations of devices attached to the data processing system. However, Hughes teaches activities for configuring devices attached to a data processing system with the use of a configuration list (*see Abstract*). It would have been obvious to one of ordinary skill in the art at the time the invention was made to include the configuring of devices in a list of Singh to the existing management of multi-application devices in a stack (type of list) because configuring devices is a necessary procedure before devices are to be used (*col. 1, lines 20-21*).

***Response to Arguments***

13. Applicant's arguments have been fully considered but are now moot in view of the new grounds of rejections.

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***Conclusion***

14. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

- a. **US 5,991,845 (Bohannon et al.)** discloses the feature of removing terminated processes from a queue structure (*see Abstract*).
- b. **JP 11175358 A (Touken)** discloses a job completion notifying unit that deletes a job from a table when completed (*see Abstract*). A table is composed of an array, and therefore, is an ordered list.

15. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kenneth Tang whose telephone number is (571) 272-3772. The examiner can normally be reached on 8:30AM - 6:00PM, Every other Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Meng-Ai An can be reached on (571) 272-3756. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Kt  
8/4/05

  
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